

MINUTES OF CODE ENFORCEMENT
SPECIAL MAGISTRATE HEARING
HELD IN THE COUNCIL CHAMBERS
260 ORANGE TREE DRIVE
ATLANTIS, FL 33462
OCTOBER 16, 2008

Special Magistrate Glen Torcivia presided over the hearing, which commenced at 10:10 AM. Present were Vice Mayor Fred Furtado, City Attorney Keith Davis, City Manager Mo Thornton, Sgt. Sean Mahoney, and City Clerk Joan Cannata-Fox. Those testifying were sworn in.

Status/Fine Assessment:

The first case to be presented was CE-08-030, for various violations involving the parking at the Shoppes of Atlantis located at 5825 N. Congress Avenue, owned by Conrad Baker and managed by Barbara Allen.

The City presented its case, together with testimony and photographs from Sgt. Mahoney and testimony by Joseph Crisafulle, the Building Official for the City.

Special Magistrate Torcivia found proper notice and accepted the various photos and other exhibits into the record.

Barbara Allen presented her case and stated that she was making progress. She will have the contractor call for a final inspection on the paving when completed.

The fine of \$100 per day from July 15, 2008 continues until an affidavit of Compliance is filed and the permit is finalized. The Special Magistrate stated that he would not be entering an Order at this time. This matter is set for Status and possible fine mitigation on November 20, 2008.

Violations:

The first case to be presented was CE-08-056, regarding numerous violations at 421 N. Country Club Drive, owned by Kim Joyce.

The City presented its case together with photographs and testimony by Sgt. Mahoney. The City is asking for a finding of Violation in regard to the landscaping, the driveway, the pool and pool gate and the exterior door. The City withdrew the allegation of the feral cats on the property.

Ms. Joyce presented her case and asked for time to have the driveway repaired (she has a contract for same), together with the doors.

The Special Magistrate found proper notice. The Respondent is in violation and shall have until November 3, 2008 to bring the property into compliance or a fine of up to \$250.00 per day could be imposed. The door by the pool will be stained; the door to the garage will be painted white and the driveway will be either seal-coated or over-layed. The Respondent is assessed administrative costs in the amount of \$58.42 for this hearing. A Status/Fine Assessment hearing is scheduled for

November 20, 2008 at 10 AM. The Respondent should call for an inspection of the premises when the work has been completed.

The next case was Case No. CE-08-051, regarding the improper parking of recreational vehicle (boat) at 280 N. Country Club Drive owned by Dale Buckner.

The City presented its case together with photographs and testimony by Sgt. Sean Mahoney and City Manager Mo Thornton. Mr. Buckner stipulated to proper notice.

Mr. Buckner presented his case, together with photographs and a memorandum and he questioned Sgt. Mahoney and City Manager Mo Thornton.

The Respondent requested that the matter of his boat in the carport either be “grandfathered in” or judged not enforceable to his unit or equitable estoppels.

City Attorney Davis argued that is an enforceable matter by the City and asked for a Finding of Violation and removal of the boat or a fine of \$25.00 per day until the boat is removed, plus costs in the amount of \$65.34.

The Special Magistrate requested that both Mr. Davis and Mr. Buckner submit arguments and case law to him and each other within the next ten days. Both agreed. The Special Magistrate will issue his Order within approximately one week of receiving the documentation from the City and the Respondent. The Special Magistrate requested copies of the photos and documents from both parties to assist with his decision.

The next case to be presented was CE-059, regarding no fence or proper screen enclosure around the pool at 437 N. Country Club Drive, owned by Mr. & Mrs. Walter Brannock.

The City presented its case together with photographs and testimony by Sgt. Sean Mahoney, Building Inspector Joseph Crisafulle and City Manager Mo Thornton.

Mr. Brannock presented his case stating that he had filed for a permit and was in the process of putting in the fence.

The Special Magistrate found that the Respondents are in violation and shall have until November 3, 2008 to have the fence installed and inspected. Respondents should call for a final inspection of the fence as soon as it is completed. A Status/Fine Assessment hearing is scheduled for November 20, 2008, at which time the fine assessed could be up to \$250.00 per day. The Respondents are to pay administrative costs in the amount of \$98.42.

Determination of Health Safety Welfare Threat:

The case to be presented was Case No. CE-08-027, regarding various violations, especially an unsafe swimming pool, at the property located at 524 Muirfield Drive, owned by Mr. & Mrs. Osvaldo Rosa. The City presented its case together with photographs and testimony by Sgt. Sean Mahoney and City Manager Mo Thornton.

The Respondents were not present.

The Special Magistrate found proper notice. He stated that he would abate the pool and landscaping so that the City could recover the expenses incurred for maintenance. The Respondents are assessed administrative costs in the amount of \$52.15.

Repeat Violations:

The case to be presented was Case No. CE-08-061, regarding various violations at the property located at 457 Glenbrook Drive, owned by Sixto Figueroa and Rolando Herrera.

The City presented its case together with photos and testimony by Sgt. Sean Mahoney and City Manager Mo Thornton.

The Respondents were not present.

The Special Magistrate ruled that there was proper notice and a Repeat Violation did exist and a fine of \$100.00 per day is imposed from September 25, 2008 until Compliance. The Special Magistrate abated the matter of the pool and the lawn so that the City may be able to maintain the property and recover their costs for same. Costs in the amount of \$57.98 are assessed against Respondents.

The hearing adjourned at 12:10 PM

Joan Cannata-Fox, City Clerk

NOTE: A mechanical recording has been made of the foregoing procedures of which these minutes are a part, and is on file in the office of the City Clerk.